Statement of Richard W. Pombo (R-CA)
Chairman
House Committee on Resources
Hearing on H.R. 3824, the Threatened and Endangered Species Recovery Act
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The Endangered Species Act was singed into law and introduced to the American public in 1973, more than three decades ago.

Right around this time, Americans were also being introduced to the first VCR's, jumbo jets and Atari TV game consoles. In medicine, ultrasound diagnostic techniques were developed and the sites of DNA production on genes were discovered.

Since then, Americans have experienced the introduction of innovative wonders like Microsoft Windows, the Internet, cellular phones, anti-lock brakes and air bags, Nintendo Game Cube (whatever that is), the Blackberry, etc.

But most importantly for our species, science, technology, and the freedom of innovation have led to incredible advances in medicine. What was once a 7-day hospital stay in 1973 is now a half-day outpatient visit, perhaps even just a prescription from a doctor.

America 's endangered species, unfortunately, have not been the beneficiary of these society-wide advancements over the last three decades. America has been getting better, but for all intents and purposes, the ESA is still stuck in 1973, wearing leisure suits, mood rings and collecting pet rocks.

According to the U.S. Fish and Wildlife Service, only ten of the roughly 1300 species on the ESA's list have recovered in the Act's history. That is a less than one percent success rate. And the Service's data on our species' progress toward recovery today isn't much better.

Yet, despite these facts, the ESA's groupies would have you believe that it is better than ever before. They defend the Act's original language from updates as if it were Shakespeare's works we were editing.

It has been 99% successful, they will tell you, because all but nine species are with us today. The official Fish and Wildlife Service data, however, tells a much different story:

- 39% of the Act's listed species are in "unknown" status – they have no idea – could be extinct.
- 21% as classified by the Service as declining
- 3% though currently on the list are believed to be extinct
- 30% are classified as "stable" though for many species in this category, this is only a result of corrections to original data error, rather than actual accomplishments of the ESA.
- And finally, only 6% are classified as improving.

The math just doesn't add up.

And across the board, according to the Service, 77% of all the listed species have only achieved somewhere between ZERO and one quarter of their recovery goals. In fairness, I am sure this number includes the species in the "unknown" category, because if you don't know where the species is, or if it is still around, you can't accurately gauge its status.

Now, we all know it takes time to recover endangered species, but after three decades of implementation, do these sound like the statistics of a successful law? Of course not, but the defenders of the three-decade-status-quo are just getting warmed up.

To help demonstrate what some have called their “blind faith” in this law, opponents of change may even go so far as to tell you that species with designated critical habitats are more likely to be improving, even though the official position of the Service, in successive administrations, both Democrat and Republican, is that 30 years of critical habitat has done very little – if anything – to help species. On the contrary, it just causes conflict, litigation, and wastes valuable agency resources that could otherwise be spent in the field on species in need.

I could go on and on, but the bottom line is the Endangered Species Act is in desperate need of an update. I would wager that none of my colleagues on this dais could say with a straight face, that almost 34 years ago, when Congress passed its first attempt at a species recovery law, we got it EXACTLY right. Congress gets NOTHING exactly right.

The ESA must be updated to incorporate 30 years of lessons learned. It must be modernized for the 21 st century to provide flexibility for innovation to achieve results. We must change the Act’s chief unintended consequences of conflict and litigation into real cooperative conservation.

The ESA’s regulatory Iron Curtain has prevented this from happening. It has hurt species recovery by leading to the trend we all know as “shoot, shovel and shut up.” And it has hurt family farmers and ranchers by taking their property away unnecessarily.

In my thirteen years of experience in Congress with the ESA, it is here that the opposing line-in-the-sand has always been drawn. Everyone here today wants this law to work to conserve and recover endangered species, but not everyone wants to enlist the help of the private property owner to do it. Perhaps it is simply an ideological difference.

But I submit to you that if we do not enlist the property owner, we will never increase the ESA’s meager results for species recovery. Because 90% of all endangered species in America have habitat on private land, we can never reasonably expect to achieve success if we do not make the landowner an ally of the species and a partner of the federal government.

In this regard, protecting the private property rights of the American landowner is not only what is right constitutionally, it is the KEY to increasing our rates of species recovery.

The bipartisan Threatened and Endangered Species Recovery Act – or TESRA - will do just this. It begins to solve the long-outstanding problems of the Endangered Species Act by (1) focusing on species recovery by creating recovery teams and requiring recovery plans by date certain (2) increasing openness and accountability (3) strengthening scientific standards (4) creating bigger roles for state and local governments (5) protecting and incentivizing private property owners and (6) eliminating dysfunctional critical habitat designations that cause conflict without benefit.

So, as we move forward in this process, I ask the committee to rise above partisanship and hyperbole, as the sponsors of this legislation have, and engage in honest debate. When you hear the tired and inane rhetoric of “gut,” “rollback” and “eviscerate,” take a step back, look at the official Fish and Wildlife Service data, think of all the conflict, and ask yourself, what could we possible have to rollback? It’s time to move forward, update this law and bring it into the 21 st Century.